

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION**

BRENDA KAYE TATUM, BELINDA
BRYAN and IVA THELMA BENSON,

Plaintiffs,

v.

LIBERTY MUTUAL HOLDING
COMPANY, INC., LIBERTY MUTUAL
GROUP, INC., LIBERTY MUTUAL
INSURANCE COMPANY, SAFECO
INSURANCE COMPANY OF AMERICA,
SAFECO NATIONAL INSURANCE
COMPANY,

Defendants.

Case No.: _____

**NOTICE OF REMOVAL
[28 U.S.C. § 1441, et seq.]**

TO: The Honorable Peter Moore, Jr.
Clerk of United States District Court
Eastern District of North Carolina
P.O. Box 25670
Raleigh, NC 27611

PLEASE TAKE NOTICE Defendant, Safeco Insurance Company of America (“Safeco”) hereby gives notice of the removal of the above-captioned action, pursuant to 28 U.S.C. § 1441, *et seq.*, from the Superior Court of Bladen County, North Carolina, to the United States District Court for the Eastern District of North Carolina, Southern Division. As grounds for this removal, Safeco states:

1. On or about September 3, 2021, Plaintiffs, Brenda Kaye Tatum, Belinda Bryan and Iva Thelma Benson (“Plaintiffs”), commenced a civil action against Liberty Mutual Holding Company, INC., Liberty Mutual Group, INC., Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco National Insurance Company (“State Court Defendants”) by filing a complaint in the Superior Court of Bladen County, North Carolina, Civil Case No. 21-

CVS-568 (“State Court Action”). In the complaint, Plaintiffs state claims against State Court Defendants for alleged breach of contract, common law bad faith, and unfair claims settlement practices and unfair and deceptive trade acts and practices under N.C. Gen. Stat. §§ 58-63-15 and/or 75-1.1. *et seq.* See Complaint and Summons attached hereto as Exhibit A, ¶¶ 34-37. Plaintiffs’ claims against State Court Defendants allegedly arise from their partial denial of part of a property damage claim Plaintiffs filed under a Homeowners Policy of insurance issued to Plaintiffs by Safeco Insurance Company of America. *See id.* ¶¶ 24-26.

2. On or about October 11, 2021, Plaintiff submitted a Notice of Voluntary Dismissal without prejudice of all claims against Liberty Mutual Holding Complaint, Inc., Liberty Mutual Group, Inc., Liberty Mutual Insurance Company, and Safeco National Insurance Company for filing in the State Court Action. See Voluntary Dismissal attached hereto as Exhibit B. As of the date of this Notice of Removal, we do not have a filed copy. However, upon filing, Defendant Safeco Insurance Company of America (“Safeco”) will remain as the sole Defendant in the State Court Action and the sole Defendant in this Federal Court Action.

3. As a result of Safeco’s alleged conduct, Plaintiffs allege in their complaint that they sustained damages in excess of \$25,000.00. See Exhibit A at ¶ 33 and Prayer. Plaintiffs further assert that they are entitled to three times the compensatory damages fixed by a verdict in this action as provided by N.C. Gen. Stat. § 75-1.1. *See id.* ¶ 42 and Prayer. Plaintiffs filed their action with the Superior Court of Bladen County under N.C. Gen. Stat. § 7A-243. Accordingly, it is apparent from the face of Plaintiffs’ complaint that the \$75,000.00 monetary threshold for removal, exclusive of interests and costs, under 28 U.S.C. § 1332 has been met.

4. Plaintiffs served process issued to Safeco in the State Court Action through its registered agent on September 17, 2021. A copy of the relevant correspondence evidencing service is attached hereto as Exhibit C.

5. Based on the service dates above, Safeco timely filing this notice of removal within 30 days after receiving the first pleading or notice that the State Court Action may be removed to this Court under 28 U.S.C. § 1446(b)(1).

6. Since the alleged amount in controversy in the State Court Action exceeds the sum of \$75,000.00, exclusive of interest and costs, this Court has original jurisdiction over the action, pursuant to 28 U.S.C. § 1332, and there is a complete diversity of citizenship among the parties by virtue of the allegations in Plaintiffs' complaint and the fact that:

- a. Plaintiff Brenda Benson Tatum is a citizen and resident of New Hanover County, North Carolina. *See* Exhibit A, ¶ 1;
- b. Plaintiff Belinda Bryan is a citizen and resident of Wake County, North Carolina. *See id.* ¶ 2;
- c. Plaintiff Iva Thelma Benson is a citizen and resident of Bladen County, North Carolina. *See id.* ¶ 3;
- d. Safeco Insurance Company of America is a corporation organized under the laws of the State of New Hampshire that maintains its principal place of business in Dover, New Hampshire. *See* Exhibit D, Safeco Insurance Company of America's registration information on file with the National Association of Insurance Commissioners, as maintained by the North Carolina Department of Insurance.

7. The State Court Action is currently pending in the Superior Court of Bladen County, North Carolina, which county is located within the geographic boundaries for this Court; therefore, the venue of this action is proper with this Court upon removal pursuant to 28 U.S.C. §§ 1441(a) and 1446(a).

8. Safeco will promptly notify Plaintiffs, along with the Clerk of Court for Bladen County, North Carolina, of the removal of the State Court Action to this Court through the filing and service of this notice with said Clerk of Court, as required by 28 U.S.C. § 1446(d).

Respectfully submitted this the 13th day of October, 2021.

WALL TEMPLETON & HALDRUP, P.A.

/s/ Brianna H. Walther
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Attorneys for Defendant
Safeco Insurance Company of America

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she supervised her office in the service of the foregoing “**Notice of Removal**” on the following parties or on counsel for the parties to this action by depositing a copy of the same in the United States mail, postage prepaid, addressed as follows:

L. Lamar Armstrong, III, Esq.
The Armstrong Law Firm, P.A.
602 S. Third St.
P.O. Box 27
Smithfield, NC 27577
Attorneys for Plaintiffs

Served this 13th day of October, 2021.

WALL TEMPLETON & HALDRUP, P.A.

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